

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**SB 154 – HB 1670**

March 31, 2009

**SUMMARY OF BILL:** Requires, within one year of the effective date, each state agency to conduct a comprehensive review of all entry regulations and establish a process allowing private companies to compete for contracts to perform public services either with or without subsidy. Requires, within 15 months of the effective date, each state agency to report to the General Assembly the results of the comprehensive review and all actions taken by the department to conform to the requirements of the bill. Requires the implementation of the private participation process within 18 months of the effective date. Establishes a method for individuals to petition agencies to repeal or modify entry regulations and public service restrictions. Actions on petitions must be completed within 90 days. Authorizes the petitioner to file an appeal of the regulation with the court of general jurisdiction which may result in the agency being enjoined from further enforcement of the regulations. If the petitioner prevails, the department shall be required to pay reasonable attorney's fees and court costs to the petitioner.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – Exceeds \$1,900,000**

Assumptions:

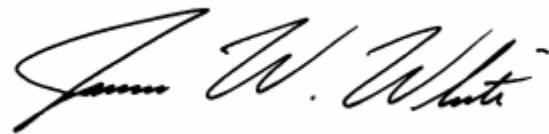
- According to the Department of Commerce and Insurance, the expense for the review of the criteria of all the regulatory boards and commissions as well as the registration programs (estimated 50 – 75 programs) is estimated to equal \$288,000 for independent review. A request by staff for further specific cost estimates by the Department received no response as of the date of this fiscal note. It is estimated that the Department would incur an increase in expenditures of \$153,300 annually for the payment of the court costs and attorney's fees of a petitioner who prevails in an appeal heard by the courts.
- According to the Department of Correction, in order to meet the timelines in the bill, an outside consultant would be hired to complete the comprehensive review and issue the reported findings at an estimated cost to the state of \$288,000. It is estimated that the Department could lose one appeal per year and would incur a cost of \$75,000 for the payment of the court costs and attorney's fees of a petitioner who prevails in an appeal heard by the courts.

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- According to the Department of Human Services, while the review and reporting could be handled with current Department resources, the potential court costs of attorney's fees that would be awarded a petitioner who prevails in an appeal heard by the courts is estimated to equal \$73,100 annually.
- According to the Department of Environment and Conservation, additional personnel with expertise in environmental issues as well as state and federal regulations would be necessary to conduct the initial review as well as the ongoing regulation of participation. The estimated recurring increase in state expenditures for these positions equals \$520,800 (\$343,738 salaries + \$177,062 benefits). In addition, it is estimated that a cost of \$100,000 would be incurred to pay the attorney's fees and court costs of a petitioner who prevails in an appeal heard by the courts.
- According to the Department of Education, additional personnel would be necessary to conduct the review of entry regulations and report to the legislature. The estimated recurring increase in state expenditures for two positions equals \$144,000 (\$95,040 salaries + \$48,960 benefits). An additional \$4,300 is estimated to pay the attorney's fees and court costs of a petitioner who prevails in an appeal heard by the courts.
- According to the Department of Finance and Administration, additional personnel would be necessary to conduct a comprehensive review of all entry regulations, establish new rules, policies, and procedures and manage the implementation of the new process. The estimated recurring increase in state expenditures for four positions equals \$293,600 (\$193,776 salaries + \$99,824 benefits). No additional information regarding court costs was provided by the Department.

## **CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" and last name "White" clearly distinguishable.

James W. White, Executive Director

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